

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

THOMAS FLOOD,

X

CIVIL ACTION NO.:

Plaintiffs,

-against-

OTIS J. CHRISTIAN, AUSLANDER CORPORATION
and AUSLANDER CORPORATION d/b/a AUSCOR
TRANSPORTATION SERVICES,

NOTICE OF REMOVAL

Kings County Index No.:
505678/2022

June 22, 2022

Defendants.

X

PETITION OF REMOVAL OF CIVIL ACTION

1. Defendants, OTIS J. CHRISTIAN (“Christian”), AUSLANDER CORPORATION (“Auslander”), and AUSLANDER CORPORATION d/b/a AUSCOR TRANSPORTATION SERVICES (“Auscor Transportation”) (collectively hereinafter referred to as “Defendants”) are named as parties in a civil action commenced by Plaintiff, THOMAS FLOOD (“Plaintiff”) in the New York Supreme Court, Kings County action captioned *THOMAS FLOOD v. OTIS J. CHRISTIAN, AUSLANDER CORPORATION and AUSLANDER CORPORATION d/b/a AUSCOR TRANSPORTATION SERVICES*, Index No. 505678/2022 (the “State Court Action”). A copy of Plaintiff’s Summons and Verified Complaint is annexed hereto as Exhibit “A”.

2. Upon information and belief, said action was commenced by Plaintiff’s filing of the Summons and Verified Complaint on February 22, 2022. The Summons and Verified Complaint are dated February 22, 2022.

3. Upon information and belief, Christian was served with the Summons and Verified Complaint on April 4, 2022, and thereafter, on April 4, 2022, Christian was served with the Summons and Verified Complaint via mail.

4. Upon information and belief, Auslander was served with the Summons and Complaint, via the Secretary of State, on March 29, 2022, and thereafter, on March 30, 2022, Auslander was served with the Summons and Verified Complaint via mail.

5. Upon information and belief, Auscor Transportation was served with the Summons and Complaint, via the Secretary of State, on March 29, 2022, and thereafter, Auscor Transportation was served with the Summons and Verified Complaint via mail.

6. Upon information and belief, Plaintiff is a New York resident who resides in Kings County, New York.

7. Upon information and belief, Christian is a New Jersey resident who resides in Newark, New Jersey.

8. Upon information and belief, Auslander Corporation is a New Jersey Domestic Profit Corporation, with its principal place of business in Old Bridge, New Jersey.

9. No Defendants have filed responsive pleadings in the State Court Action.

10. The within lawsuit is a controversy between citizens of different states, as to give rise to complete diversity of citizenship within the meaning of 28 U.S.C. § 1332.

11. By letter dated May 12, 2022, Defendants' attorney wrote Plaintiff's counsel and sent an accompanying stipulation asking Plaintiff to stipulate that the total amount of damages he can recover, if any, in this action cannot exceed \$75,000.00, exclusive of interest and costs. A copy of the May 12, 2022 correspondence and proposed stipulation is annexed hereto as Exhibit "B".

12. While not specifically pled in Plaintiff's Summons and Verified Complaint in the State Court Action, Plaintiff seeks in excess of \$75,000.00 (*See Exhibit B*). As such, the matter in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

13. Defendants assert that this Honorable Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332 by virtue of diversity of citizenship jurisdiction.

14. Therefore, Defendants are entitled to removal of the State Court Action to this Court pursuant to 28 U.S.C. § 1441(a).

WHEREFORE, Defendants OTIS J. CHRISTIAN, AUSLANDER CORPORATION and AUSLANDER CORPORATION d/b/a AUSCOR TRANSPORTATION SERVICES respectfully request that the State Court Action be removed to the United States District Court for the Eastern District of New York.

Dated: New York, New York
June 22, 2022

CLAUSEN MILLER P.C.



By:

Carl M. Perri, Esq.
Attorneys for Defendants
OTIS J. CHRISTIAN, AUSLANDER
CORPORATION and AUSLANDER
CORPORATION d/b/a AUSCOR
TRANSPORTATION SERVICES
28 Liberty Street, 39th Floor
New York, New York 10005
(212) 805-3900
File No: 22-4804-00-5

CERTIFICATE OF SERVICE

I certify that on the 22nd day of June 2022, I caused a true and correct copy of the foregoing NOTICE OF REMOVAL OF CIVIL ACTION to be served via U.S. Mail postage prepaid, on the following:

Matthew Sullivan, Esq.
Gregory Spektor & Associates, P.C.
One Cross Island Plaza, Suite 203C
Rosedale, New York 11422



Carl M. Perri